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4 UNITED STATES DISTRICT COURT

5 DISTRICT OF NEVADA
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8 UNITED STATES OF AMERICA,) 2:10-CR-00124-PMP-RJJ
9 Plaintiff,)
10 vs.) **ORDER**
11 DARRYL OWEN WALIZER,)
12 Defendant.)
13 _____

14 Before the Court for consideration is Defendant Owen Walizer's fully
15 briefed Motion to Dismiss Count Two of the Indictment or, Alternatively, Determine
16 the Elements and Proof Required for Conviction (Doc. #25), filed on June 25, 2010.
17 On December 30, 2010, the Honorable Robert J. Johnston, United States Magistrate
18 Judge entered a Report & Recommendation (Doc. #51) recommending that
19 Defendant's Motion be denied.

20 Defendant Walizer filed timely Objections to the Report &
21 Recommendation of Magistrate Judge Johnston (Doc. #55), to which Plaintiff United
22 States Responded (Doc. #57) on January 18, 2011.

23 Having conducted a de novo review of the record in this case in accordance
24 with 28 U.S.C. § 636(b)(1) and Local Rule IB 3-2 and determines that
25 Magistrate Judge Johnston's Report & Recommendation (Doc. #51) should be
26 Affirmed. **IT IS ORDERED.**

IT IS FURTHER ORDERED that Defendant Owen Walizer's Motion to Dismiss Count Two of the Indictment or, Alternatively, Determine the Elements and Proof Required for Conviction (Doc. #25) is **DENIED**.

DATED: February 2, 2011.


Philip M. Pro
United States District Judge